

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 BARTELL RANCH LLC, *et al.*,

5 Plaintiffs,

6 v.

7 ESTER M. MCCULLOUGH, *et al.*,

8 Defendants.

9 and

10 LITHIUM NEVADA CORPORATION,

11 Intervenor Defendant.

12 and related consolidated
13 Case No. 3:21-CV-0103-MMD-CLB

Case No. 3:21-CV-0080-MMD-CLB

**REPORT AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE¹**

14 **I. FACTUAL BACKGROUND AND DISCUSSION**

15 Atsa koodakuh wyu Nuwu People of Red Mountain ("Red Mountain") intervened in
16 the consolidated action in July 2021. (3:21-CV-0103-MMD-CLB, ECF No. 59.) Thereafter,
17 Red Mountain moved for a temporary restraining order and preliminary injunction to enjoin
18 physical disturbance of Thacker Pass pursuant to activities undertaken in furtherance of
19 the Thacker Pass Lithium Mine Project Record of Decision, Plan of Operations, or Historic
20 Treatment Plan. (ECF No. 45.) On September 3, 2021, the motion for preliminary
21 injunction was denied. (ECF No. 92.)

22 On January 26, 2022, all counsel of record for Red Mountain withdrew, and the
23 Court advised Red Mountain that a corporation and other unincorporated associations
24 may only appear in federal court through an attorney. *United States v. High Country*

25
26 ¹ This Report and Recommendation is made to the Honorable Miranda M. Du,
27 United States District Judge. The action was referred to the undersigned Magistrate
28 Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4.

1 *Broadcasting Co., Inc.*, 3 F.3d 1244 (9th Cir. 1993); *Licht v. America West Airlines*, 40
2 F.3d 1058 (9th Cir. 1994). (ECF No. 175.)

3 Red Mountain was advised a second time on March 7, 2022 that it may only appear
4 in federal court through counsel. (ECF No. 195.) Red Mountain was cautioned that if it
5 failed to obtain counsel, the Court would issue a report and recommendation to dismiss
6 Red Mountain's claims, without prejudice. (*Id.*) To date, no counsel has appeared for Red
7 Mountain.

8 Therefore, this Court recommends that Red Mountain be dismissed from this
9 action, without prejudice.

10 The parties are advised:

11 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of
12 Practice, the parties may file specific written objections to this Report and
13 Recommendation within fourteen days of receipt. These objections should be entitled
14 "Objections to Magistrate Judge's Report and Recommendation" and should be
15 accompanied by points and authorities for consideration by the District Court.

16 2. This Report and Recommendation is not an appealable order and any
17 notice of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the
18 District Court's judgment.

19 **II. RECOMMENDATION**

20 **IT IS THEREFORE RECOMMENDED** that Intervenor Plaintiff Atsa koodakuh wyu
21 Nuwu People of Red Mountain be **DISMISSED** from this action, without prejudice.

22 **DATED:** May 5, 2022.

23 
24 **UNITED STATES MAGISTRATE JUDGE**